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ABSTRACT

Over the past 3 to 4 years, Cornell University has been involved in research to explore how disability discrimination legislation impacts employer policies and practices regarding hiring, retaining, and accommodating applicants and employees with disabilities. The purpose of this paper is to describe the process by which Cornell conducted this research, the research regarding current employer practices, employer reported remaining barriers to people with disabilities, employer recommended ways to address these barriers, and the implications of these findings for career development professionals. (GCP)

# Employer Perspectives on Disability Nondiscrimination Practices

by

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# Employer Perspectives on Disability Nondiscrimination Practices

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## U.S. Workforce Participation Rates of People with Disabilities

It is estimated that 14 per cent of Americans are people with disabilities, approximately one in every seven of us.<sup>1</sup> Many individuals with disabilities are significantly unemployed or underemployed compared to their non-disabled peers, and this represents a significant loss of willing and able talent to both private and public sector organizations, as well as loss of income and social and economic participation for people with disabilities. This is true despite the fact that it has been over a decade since the passage of the Americans with Disabilities Act of 1990 (ADA), which prohibits disability discrimination. According to Burkhauser, Daly, and Houtenville (2000), using the Census Bureau's Current Population Survey (CPS) for working-age civilians in 1999, 34% of men and 33% of women with work disabilities were employed during last year, compared to 95% of men and 82% of women without work disabilities. Men and women with disabilities also worked fewer hours on average (approximately one-third less) than those without disabilities. This disparity is a function of inequities in social policy, access to education, training, and employment, as well as society's attitudes.

To illustrate this disparity pictorially, *Figure 1* presents the relative employment rate of men with disabilities compared to their non-disabled peers on a state-by-state comparison (Houtenville, 2001).<sup>2</sup> (The relative employment rate is the unemployment of those with disabilities as a percentage of the employment rate of those with and without disabilities. The larger the number is, the closer are the employment rates of those with and without disabilities.)

As the workforce ages, work limitations due to disabilities also increase. According to the March 2000 Current Population Survey, 6.7% of those aged 25-34 reported a work limitation. For individuals ages 45-54, the proportion reporting work limitations increased to nearly one in ten (9.8%) and to 16.1% of those aged 55-61 (Burkhauser and Houtenville, in press). The increase in work limitations, coupled with a rapidly growing population of older workers, greatly increases the number of people who may require assistance from career development professionals. Another consideration for career development specialists is that, although most career development professionals may be focusing their efforts to assist individuals to obtain careers in the private sector, with 2.7 million employees,<sup>3</sup> the U.S. federal government continues to be the largest single employer in the U.S. and an important career and job placement opportunity for people with disabilities. This may be particularly true at this time, since there is an executive order that mandates that the federal agencies will collectively hire 100,000 individuals with disabilities over the next five years.<sup>4</sup>

## **Cornell University Human Resources Disability Nondiscrimination Policies and Practices Research**

Over the past three to four years, Cornell University has been involved in research to explore how disability discrimination legislation, like the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 as amended, impact employer policies and practices regarding hiring, retaining, and accommodating applicants and employees with disabilities. The purpose of this paper is to describe the process by which Cornell conducted this research, the research findings regarding current employer practices, employer reported remaining barriers to people with disabilities, employer recommended ways to address these barriers, and the implications of these findings for career development professionals.

Two ten-page parallel surveys covering issues dealing with the employment provisions of the Americans with Disabilities Act of 1990 (ADA), and for federal sector organizations, the Rehabilitation Act of 1973 as amended, were used to survey a random sample of the membership of the Society for Human Resource Management (SHRM), the entire membership of the Washington Business Group on Health (WBGH), and the human resource (HR) and equal employment opportunity (EEO) personnel in U.S. Federal agencies.<sup>5</sup> The surveys included items covering: the reasonable accommodation process; recruitment, pre-employment screening, testing, and new employee orientation; health and other benefits of employment; opportunities for promotion/training; disciplinary process/grievance, dismissal or termination; interaction with labor/industrial/collective bargaining issues and other employment legislation; personnel training on the ADA and the Rehabilitation Act; resources used and found most helpful in handling disability nondiscrimination and accommodation disputes; and the role of disability management programs in contributing to the accommodation process and workplace acceptance of employees with disabilities.

The comparative results presented here are therefore based on the feedback of approximately 800-plus private-sector and 400-plus federal-sector employer representatives, mostly HR representatives, since an HR membership organization (SHRM) was surveyed and HR and Equal Employment Opportunity representatives were the informants selected for the federal sector research.

### **How Employers are Accommodating to Date**

#### *Workplace Accommodations in General*

In both sample groups, those surveyed were asked about whether they had made certain changes in the workplace in order to meet the needs of employees with disabilities, and asked to rate the degree of difficulty in making those changes (*see Figure 2*). In both groups, the change most often made, but also seen as the most difficult to make, was changing co-worker or supervisor attitudes toward the employee with a disability (32 percent of private sector and 33 percent of federal representatives indicated this change was “difficult” or “very difficult”). The majority of respondents in both groups have made all of the listed modifications to organizational policies and practices to help overcome the barriers to employment and advancement faced by people with disabilities. Changes made by more than three quarters of respondents’ organizations include: ensuring equal pay and benefits,

creating flexibility in the performance management system, modifying the return to work policy, and adjusting leave policies.

### *Accommodations in Applicant Interviewing*

Respondents were presented with a number of employment disability nondiscrimination compliance considerations in the applicant interview process and asked how familiar their organizations' interview staff is with each of these elements (*see Figure 3*). In general, respondents reported the highest levels of familiarity with framing questions about job tasks, restrictions on eliciting medical information, when to ask about how the applicant would perform job tasks, and restrictions on obtaining medical information.

Across groups, respondents were much less familiar with accommodations for people with visual or hearing impairments such as adapting print materials for people with visual impairments, use of a reader for a person with a visual impairment, and the use of TTY/text telephones to set up interviews. Federal sector respondents indicated a much greater familiarity with accessing sign language interpreters, however (33 percent of private sector compared to 76 percent of Federal respondents reported their staff was "familiar" or "very familiar" with this issue). Federal respondents, while least familiar with accommodations for visual or hearing impairments, were far more familiar with them than their private sector counterparts. The private sector and federal sector respondents showed statistically significant differences in their responses in all of the areas presented, but one, restrictions eliciting medical information.

### **Remaining Barriers and Ways to Address Them**

In the Cornell study, respondents were presented with seven possible barriers to the employment and advancement of people with disabilities. There was a statistically significant difference between private- and federal-sector respondents in two of the areas, although in general the profile of perceived barriers in terms of overall percentage of response was similar.

Interestingly, in both the federal and private sectors, cost of training, supervision, and accommodations for applicants or employees with disabilities were least likely to be rated as significant continuing barriers, compared to other areas. The continuing barriers to employment and advancement for persons with disabilities reported by both private and federal sector employers were in the areas of lack of related experience (49 percent reported by private and 53 percent by federal), and lack of requisite skills and training in the applicant or employee with a disability (39 percent for private-sector respondents and 45 percent for federal). The next most often cited was supervisor knowledge of how to make accommodations (31 percent in the private-sector respondents and 34 percent in the federal). Attitudes or stereotypes among coworkers and supervisors toward persons with disabilities were seen as the third most significant barrier among federal respondents (43 percent), and fifth among private-sector respondents (22 percent).

Not only were respondents asked to identify possible employment and advancement barriers, but they were also asked to rate the effectiveness of six methods of reducing such barriers. There was no difference in the primary means identified by both sectors, which

was visible top management commitment (81 percent for the private-sector respondents, 90 percent for federal). The next three most popular means to reduce barriers were ranked very closely within both respondent groups, though there was a statistically significant difference between groups. These means were staff training, with 62 percent of private and 71 percent of federal reporting it as an effective or very effective way of reducing barriers; mentoring (59 and 71 percent for private and federal, respectively); and on-site consultation or technical assistance (58 percent and 71 percent, respectively). Tax incentives were seen as the least effective means to reduce such barriers by private-sector employers; indeed only 25 percent reported these as effective or very effective in reducing barriers. A parallel item on special budget allocations as a way to reduce accommodation costs to employers was asked on the federal survey. Sixty-nine percent of those interviewed saw this as effective or very effective in reducing barriers.

The survey also asked respondents to rate twelve often-used resources to handle accommodations and disability nondiscrimination issues. Across both groups, internal legal counsel ranked highly as a resource often used to resolve ADA disputes (82 and 85 percent for the private and federal sectors respectively). This was the most-often used resource for the private sector group, and a close second in the federal group, topped only by the agency EEO office (90 percent for federal respondents). The next most often used in the private sector were professional societies such as the Society for Human Resource Management (SHRM), and safety and disability staff within the organization. For the federal group, after EEO and legal advisors the next most often used resources to resolve ADA disputes were safety staff and state rehabilitation agencies (72 and 70 percent).

Among the least used resources in this listing were dispute resolution centers or mediation (10 percent) or union representatives (11 percent) in the private sector and external legal counsel (13 percent) for the federal sector respondents. By contrast, almost half of the federal sector respondents reported using alternative dispute resolution/mediation and the union representative to resolve accommodation and disability nondiscrimination issues (52 and 49 percent respectively).

Respondents were also asked to rate the degree of helpfulness of those resources that they used. Private sector respondents rated the legal counsel as the most helpful resource (87 percent found it helpful or very helpful), while disability management staff came in first in the federal sample (84 percent).

Survey informants were also asked the informational media used to address their ADA issues and their degree of helpfulness. There was a statistically significant difference between sample groups in all categories, but respondents from both identified print/video resources as the top preferred medium (73 percent for private sector, 81 percent for federal). For private sector respondents this was followed by on-site consultation, newsletters, and web sites or listservs. Federal employees ranked web sites or listservs second after print/video, followed by on-site consultation, and newsletters. Least favored for both groups was telephone consultation (31 percent of private sector, 51 percent of federal).

### **Implications for Career Development Specialists**

Career development professionals working with persons with disabilities to assist them with selecting appropriate employment goals and designing a related plan to achieve

these goals, can better serve their clients by being informed about employment disability discrimination legislation and its impact on the workplace. Disability civil rights legislation like the Americans with Disabilities Act of 1990<sup>6</sup> and the Rehabilitation Act of 1973, as amended<sup>7</sup> provide significant protections against workplace discrimination for applicants and employees with disabilities. To realize these protections, people with disabilities must be informed about their rights, and career development professionals can assist by informing their clients about the protections which these legislative mandates offer.

In addition, career development professionals can benefit from understanding the ways that employers have responded to the regulatory requirements of these laws to date, and also differences in response between private and federal sector workplaces. Specifically, it is helpful to know where employers continue to have difficulty with disability issues, and where they look to find assistance when an applicant or employee raises a disability question or requests an accommodation. For example, with an aging workforce that is likely to experience increasingly visual and hearing impairments, it is especially helpful to know that this is an area that employer representatives find difficult and have less familiarity with than other kinds of accommodations for people with disabilities.

One of the premises of the research described in this paper is that the human resource (HR) professional is an important point person in the workplace where all employment processes are concerned, and therefore an important person relative to disability discrimination issues. Knowing this, career development professionals who assist their clients with disabilities to actually access employment and support them in the employment process, will find the HR professionals a good resource within the employment setting to trouble shoot needed accommodations, and other considerations which may arise in the placement and continuing employment processes.

Lastly, it is worthy to note that employers report using many of their own internal resources to troubleshoot disability issues when they arise, and that these resources may differ in use between the private and federal sectors. Knowing that employers rely on their legal counsel, disability management specialists, Equal Employment Opportunity (EEO) offices, and/or health and safety professionals, can provide the career development professional with further organization resources to assist the employee with a disability in trouble-shooting disability accommodations questions, if they occur.

### **Summary and Conclusion**

In summary, individuals with disabilities make up a significant portion of the working-age population in America, and yet they remain vastly under- or unemployed compared to their non-disabled peers. It is vital that this disparity in opportunity be addressed, and career development professionals can assist in addressing this inequity through the services they deliver. By understanding the basic requirements of employment disability nondiscrimination legislation, knowing key players within the work environment who contribute to the accommodation process, areas that employers might need assistance with in responding to disability issues effectively, and resources which can help, career development specialists can better move toward a more equitable workplace, where Americans with disabilities find a receptive environment to utilize their talents and abilities.

## Notes:

<sup>1</sup>U. S Bureau of the Census (2000) Supplementary Survey Summary Tables, QT-02. Profile of Selected Social Characteristics: 2000.

<sup>2</sup> A complete copy of this report is available on-line from Cornell University at web site: <http://www.ilr.cornell.edu/ped/rrtc/papers.html>.

<sup>3</sup>Monthly Report of Federal Civilian Employment (SF 113-A); Office of Workforce Information, within the *Fact Book 2001 Edition, Federal Civilian Workforce Statistics* <http://www.opm.gov/fedata/01factbk.pdf>.

<sup>4</sup> Further information about hiring opportunities for people with disabilities within the Federal Government can be found at the U.S. Office of Personnel Management web site: <http://www.opm.gov/disability/employment.htm>.

<sup>5</sup> Two sponsors funded this Cornell University research. The US Department of Education National Institute on Disability and Rehabilitation Research (NIDRR) funded the study of private sector employers as a Research and Demonstration (grant No. H133A70005); this was a collaborative effort with the Society for Human Resource Management (SHRM), the Washington Business Group on Health (WBGH), and the Lewin Group. The Presidential Task Force on Employment of Adults with Disabilities in the U.S. Department of Labor funded the survey of federal human resource and equal employment opportunity personnel.

<sup>6</sup> Further information about Title I, the employment provisions of the ADA can be found on the U.S. Equal Employment Opportunity web site: <http://www.eeoc.gov/laws/ada.html>.

<sup>7</sup> Further information about the employment provisions of the Rehabilitation Act of 1973 can be found on the U.S. Equal Employment Opportunity web site: <http://www.eeoc.gov/laws/rehab.html>.

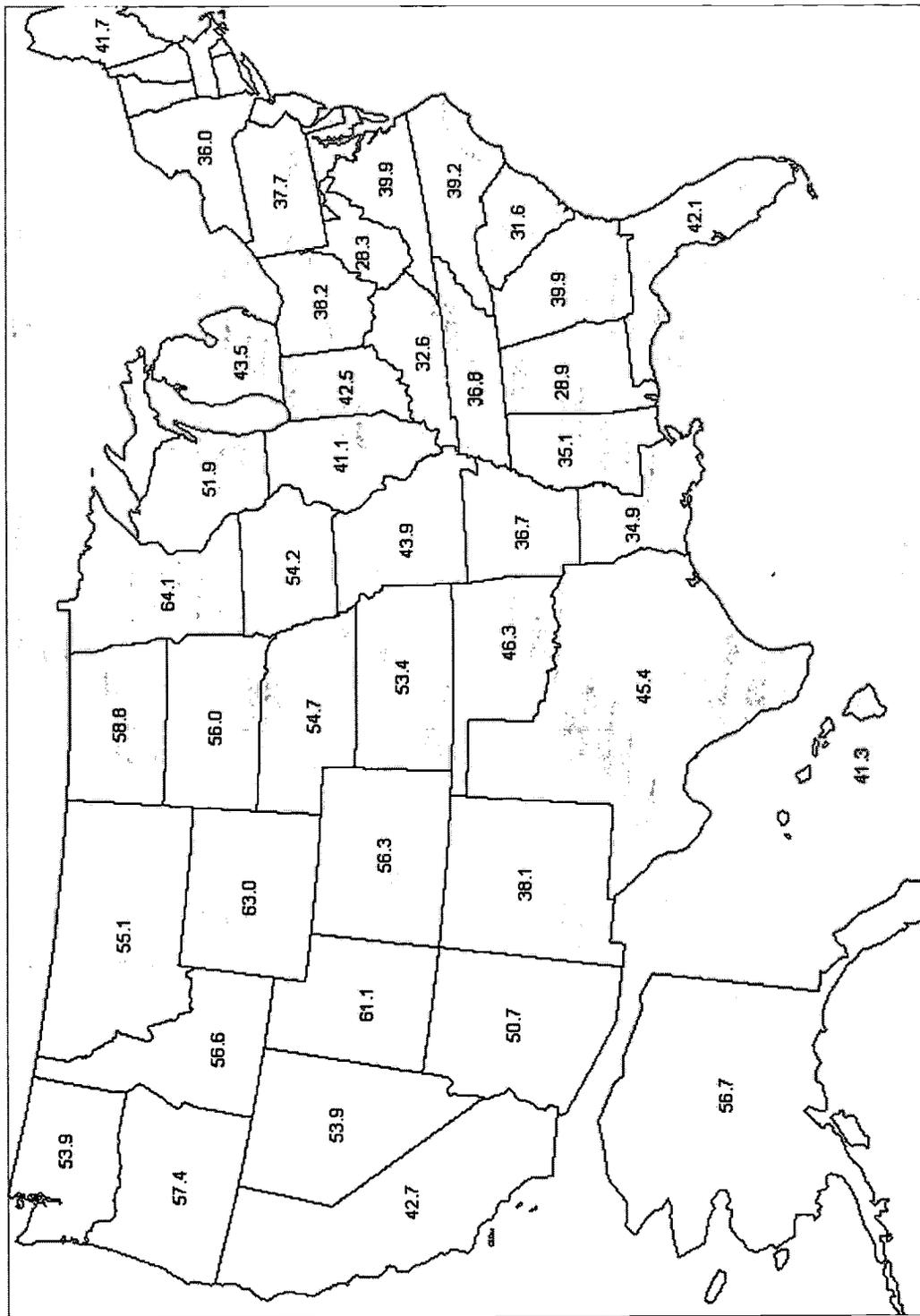
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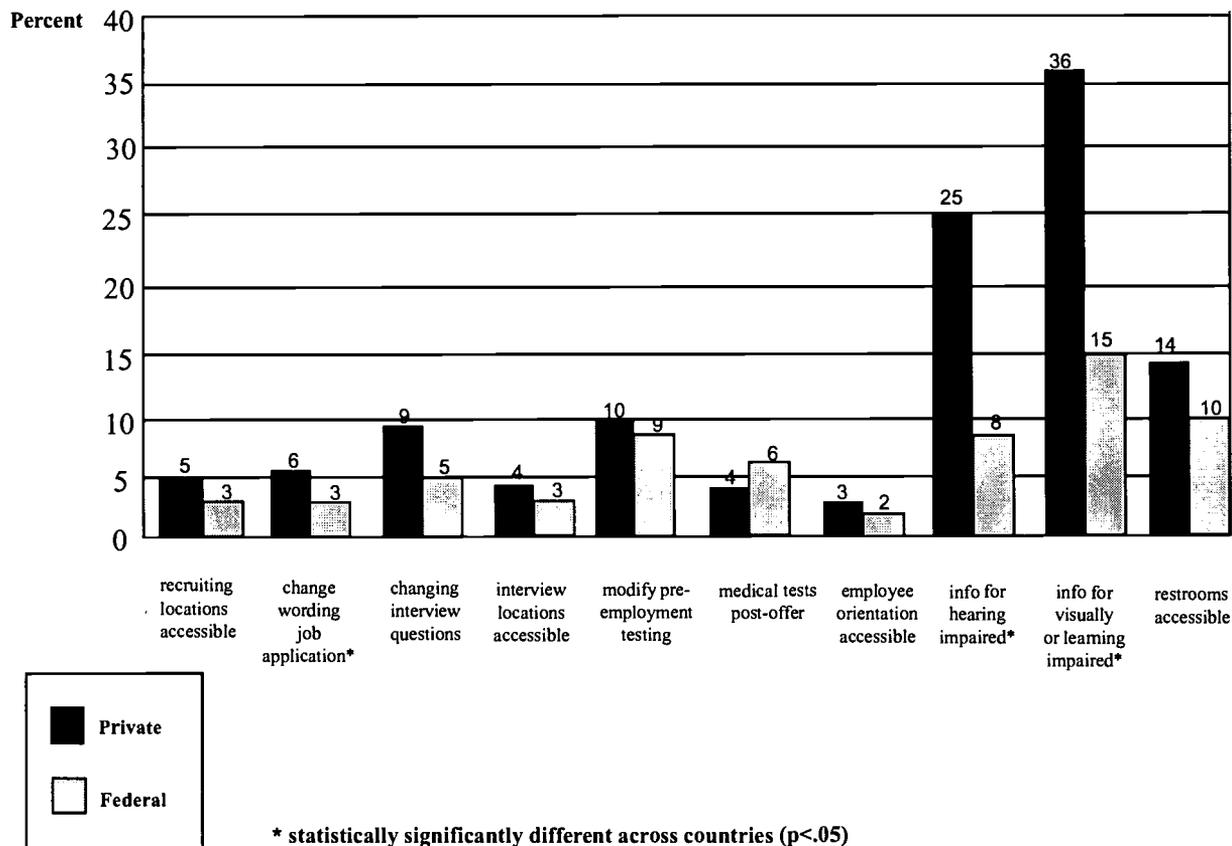
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**Figure 1: Relative Employment Rates of Non-Institutionalized Civilian Men with Disabilities aged 25 through 61 for Each State and the District of Columbia over the Period of Employment Years 1980 through 1998**

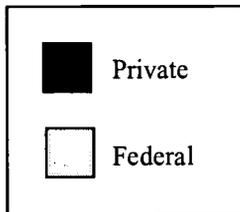
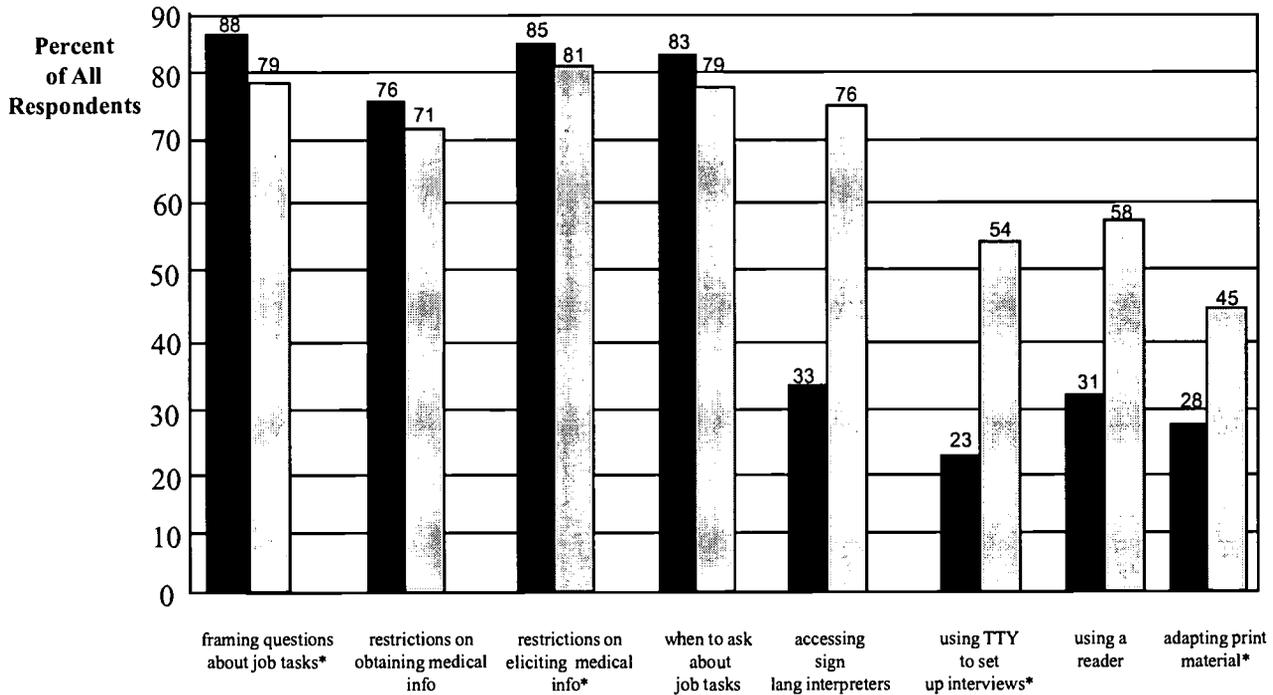


**Figure 2** Percent Reporting Difficult or Very Difficult to Make Changes by Federal/Private Sectors (of Those Who Made Changes) (S2B1)



\* statistically significantly different across countries ( $p < .05$ )  
 Note: between 10-60% of all organizations did not need to make these changes. Percentages also do not include those who were not able to make the change.

**Figure 3** Percent Reporting Familiar or Very Familiar with Applicant Interviewing Issues by Federal/Private Sectors (S2B3a-i)



\* statistically significantly different across sectors ( $p < .05$ )

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